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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,480	07/24/2003	Grant Ballin	48288-01010	1305

7590 03/22/2005  
HOLME ROBERTS & OWEN LLP  
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EXAMINER

NGUYEN, KIEN T

ART UNIT PAPER NUMBER

3714

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

### Application No.

10/626,480

### Applicant(s)

BALLIN, GRANT

### Examiner

Kien T. Nguyen

### Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 33-44 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 8 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 9-29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 05/20/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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***Election/Restrictions***

Applicant's election with traverse of Group 1 in the reply filed on 03/03/05 is acknowledged. The traversal is on the ground(s) that Groups 1-6 are closely related and an examination of the entire application can be made without serious burden. This is not found persuasive because each group contains different structural features and it could be a serious burden for the examiner to consider and/or search each species with different structural features.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagy U.S. Patent 1,550,040.

Nagy disclosed a seesaw comprising a support member (11) for support by of a support surface and a support structure (10); a moveable member (26) connected to the support member to be moveable relative to the support member between a first position and a second position (up and down); a user support (28) mechanically associated with the moveable support member and being configured to support at least one user positioned thereon, the user support being configured and positioned on the moveable member for the user to apply a selected force to one of the moveable member, said

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support surface, said support structure and the support member to urge the moveable member between the first and second positions; a sound producing mechanism (32) connected to the moveable member to produce a sound as the moveable member moves between the first position and the second position (applicant's claims 1 and 7).

The mechanism (32) includes a struck member (bars 30) configured to generate sound upon being struck, and a striking member (32) associated with the moveable member and positioned to strike the struck member upon movement of the moveable member between the first and second positions with sufficient force (applicant's claims 2, 3 and 8).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagy in view of Probst U.S. Patent 2,527,763 and Souza U.S. Patent 2,398,122.

It is noted that Nagy failed to teach the use of damping means as set forth in these claims. However, Souza disclosed a seesaw having an extension spring (28) connected at one end to the seesaw beam (15) and at a second end to the support member (10); and Probst also show a seesaw with at least one shock absorber (30) connected at one end to the seesaw beam (11) and at a second end to support member (28). Therefore, it would have been obvious to one of ordinary skill in the art to modify

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the seesaw of Nagy with features as discussed above of Souza and Probst for the purpose of enhancing the safety of the seesaw.

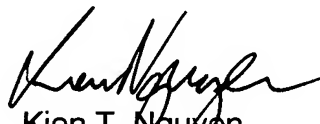
***Allowable Subject Matter***

Claims 4, 5, 9-29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (571) 272-4428. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kien T. Nguyen  
Primary Examiner  
Art Unit 3714

Ktn